

Message Text

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ORIGIN NEA-10

INFO OCT-01 ISO-00 COME-00 L-03 EB-07 SIG-01 TRSE-00
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L/NEA:DSMALL
EB/OCA/OCD:WERAU (SUBS)
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-----107340 190246Z /64

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FM SECSTATE WASHDC
TO AMEMBASSY JIDDA
INFO AMEMBASSY ABU DHABI
AMEMBASSY AMMAN
AMEMBASSY BEIRUT
AMEMBASSY DAMASCUS
AMEMBASSY DOHA
AMEMBASSY KUWAIT
AMEMBASSY MANAMA
AMEMBASSY MUSCAT
AMEMBASSY SANA
AMEMBASSY TRIPOLI
USINT BAGHDAD
AMCONSUL DHAHRAN
AMCONSUL ALEXANDRIA

C O N F I D E N T I A L STATE 167299

E.O. 11652: GDS

TAGS: BEXP, SA

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SUBJECT: ARAB BOYCOTT: MINISTRY OF COMMUNICATION (MOC)
QUESTIONNAIRE

REF: A) JIDDA 3597; B) STATE 142390

1. FOLLOWING RECEIPT OF REFTTEL, USDOC AND STATE OFFICERS
HAVE BEEN IN TOUCH WITH NUMBER OF U.S. FIRMS CONCERNING

POSSIBLE SAUDI MINISTRY OF COMMUNICATION (MOC) REQUIREMENT FOR CERTIFICATION OF "NO DEALING WITH ISRAEL OR WITH COMPANIES DEALING WITH ISRAEL." ONE CONTRACTOR HAS SENT US EXCERPT FROM MOC QUESTIONNAIRE TITLED "CONSTRUCTION CONTRACTOR QUESTIONNAIRE" WITH LANGUAGE IDENTICAL TO THAT REPORTED REFTEL. CONTRACTOR IS UNWILLING TO MAKE SUCH CERTIFICATION AND ACCORDINGLY HAS SOUGHT ADVICE FROM SAUDI EMBASSY ON ACCEPTABILITY OF SIMPLE DESCRIPTION OF CONTRACTOR'S DOMESTIC AND OVERSEAS WORK EXPERIENCE (PERHAPS COMBINED WITH CERTIFICATION OF INTENT TO COMPLY WITH SAUDI LAWS) AS A MEANS OF ESTABLISHING CONTRACTOR'S QUALIFICATION TO SERVE AS SUBCONTRACTOR ON MOC PROJECTS. CONTRACTOR REPORTS THAT SAUDI EMBASSY SAW NO PROBLEM WITH THIS APPROACH. CONTRACTOR HAS BEEN ADVISED OF DISTINCTION MADE UNDER TAX REFORM ACT BETWEEN CERTIFICATION OF COMPLIANCE WITH LAWS OF BOYCOTTING COUNTRY (TREATED AS BOYCOTT

PARTICIPATION) AND ACKNOWLEDGEMENT THAT TRANSACTION WILL BE GOVERNED BY LAWS OF BOYCOTTING COUNTRY (NOT BOYCOTT PARTICIPATION). CONTRACTOR MAY ALSO BE CONSIDERING USE OF CERTIFICATION OF INTENDED COMPLIANCE WITH BOTH SAUDI AND U.S. LAWS.

2. OUR INQUIRY ALSO HAS TURNED UP MOC FORM RECEIVED BY COLLINS RADIO WHICH CONTAINS FOLLOWING DECLARATION REQUIREMENT:
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TEXT: "WE THE UNDERSIGNED HEREBY DECLARE THAT WE HAVE NO BUSINESS WITH ISRAEL AND NEITHER OUR FIRM, NOR ANY OF OUR ASSOCIATES/SUBSIDIARIES, NOR SUBCONTRACTORS PROPOSED FOR THIS TENDER/PROJECT HAVE ANY COMMERCIAL RELATIONS WITH ISRAEL, SUCH AS: (1) MAIN FACTORY OR ASSEMBLY PLANT IN ISRAEL; (2) GENERAL OFFICES IN ISRAEL FOR REGIONAL OR INTERNATIONAL OPERATIONS; (3) GRANT OF RIGHT OF USING OUR OR THEIR NAMES, TRADE MARKS, MANUFACTURE OR INVENTIONS, LICENSES, ETC. TO ISRAELI PERSONS OR FIRMS; (4) PARTICIPATION OR OWNING SHARES IN ISRAELI FIRMS OR BUSINESS; (5) RENDERING ANY TECHNOLOGICAL ASSISTANCE TO ANY ISRAELI FIRM OR BUSINESS; AND (6) REPRESENTING ANY ISRAELI FIRM OR BUSINESS IN ISRAEL OR ABROAD. IF AT ANY TIME IT IS KNOWN THAT THIS FIRM OR ANY OF OUR ASSOCIATES, SUBSIDIARIES OR SUBCONTRACTORS FOR THIS TENDER/PROJECT, HAD OR HAS ENTERED INTO ANY SUCH RELATIONS OR IT IS PROVED THAT WE ARE HAVING BUSINESS WITH ISRAEL, THE MINISTRY OF COMMUNICATIONS, KINGDOM OF SAUDI ARABIA, WILL HAVE THE RIGHT TO CANCEL THEIR CONTRACT WITH US WITHOUT ANY OBLIGATION ON THEIR PART AND WITHOUT ANY COMPENSATION TO US. SIGNED....." END TEXT.

FYI: COLLINS RADIO DECLINED TO EXECUTE THIS DECLARATION
IN ITS BID WITH WESTINGHOUSE ELECTRIC BUT NEVERTHELESS
HAS BEEN APPROVED BY MOC AS SUBCONTRACTOR. END FYI.

3. MOC REQUIREMENT OF ABSENCE OF ANY RELATIONSHIP WITH
ISRAEL AND, IN CASE OF FORM DESCRIBED PARA 2 ABOVE,
REQUIRING NEGATIVE COMMITMENT AS TO SUCH FUTURE RELATIONS
SEEMS OUT OF STEP WITH RECENT MOVEMENT BY SAUDI GOVERNMENT
AND OTHER ARAB COUNTRIES TO MAKE ACCOMMODATIONS WITH
RESPECT TO FORM/CONTENT OF COMMERCIAL DOCUMENTATION USED
IN CONTRACTS AND IMPORT TRANSACTIONS. IT ALSO, OF COURSE,
GOES BEYOND ANY REQUIREMENTS OF ARAB LEAGUE BOYCOTT RULES
WITH WHICH WE ARE ACQUAINTED AND WILL BE PROHIBITED
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UNDER NEW U.S. ANTI-BOYCOTT LAW.

4. REQUEST EMBASSY DETERMINE WHETHER SAUDI AUTHORITIES
IN FACT REQUIRING BIDDERS TO MAKE CERTIFICATIONS OF TYPE
CITED ABOVE.

5. IF SUCH MOC FORMS ARE IN CONTINUED USE, EMBASSY SHOULD
ENCOURAGE DISCONTINUANCE IN FAVOR OF DOCUMENTATION WHICH
CONFORMS TO NORMAL BUSINESS PRACTICE (E.G., GENERAL
INQUIRY RE FIRM'S QUALIFICATIONS/EXPERIENCE). COMPLIANCE
WITH LAWS CERTIFICATION SHOULD BE AVOIDED IF POSSIBLE.
IF ANY SUCH CERTIFICATION REQUIRED, AN ACKNOWLEDGEMENT
THAT A TRANSACTION WILL BE GOVERNED BY HOST COUNTRY LAWS
IS PREFERABLE. VANCE

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Decaption Note:
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Disposition Approved on Date:
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